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THE GEO GROUP, INC., CITY OF ADELANTO,
CAMPOS, and DIAZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OMAR ARNOLDO RIVERA
MARTINEZ; ISAAC ANTONIO
LOPEZ CASTILLO; JOSUE
VLADIMIR CORTEZ DIAZ; JOSUE
MATEO LEMUS CAMPOS;
MARVIN JOSUE GRANDE
RODRIGUEZ; ALEXANDER
ANTONIO BURGOS MEJIA; LUIS
PEÑA GARCIA; JULIO CESAR
BARAHONA CORNEJO, as
individuals,

Plaintiffs,

v.

THE GEO GROUP, Inc., a Florida
corporation; the CITY OF
ADELANTO, a municipal entity; GEO
LIEUTENANT DIAZ, sued in her
individual capacity; GEO
SERGEANT CAMPOS, sued in his
individual capacity; SARAH JONES,
sued in her individual capacity; THE
UNITED STATES OF AMERICA;
CORRECT CARE SOLUTIONS,
INC.; and DOES 1-10, individuals,

Defendants.

Case No. 5:18-cv-01125-SP

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION IN LIMINE
2 TO EXCLUDE LANGUAGE
CONCERNING THE
LAWFULNESS OR
UNLAWFULNESS OF
PLAINTIFFS' ENTRIES TO AND
DEPARTURES FROM THE
UNITED STATES**

Pretrial Conference

Date: January 21, 2020
Time: 10:00 a.m.
Ctmm: 3

Trial date: February 3, 2020
Time: 9:00 a.m.

Magistrate

Judge: Honorable Sheri Pym

Defendants THE GEO GROUP, INC., CITY OF ADELANTO, CAMPOS,
and DIAZ hereby respond to Plaintiffs' Motion in Limine to exclude language

1 concerning the nature of Plaintiffs' entries and/or departures from the United States,
 2 and in particular to exclude terms such as unlawful entry, deportation, and similar
 3 concepts.

4 **ARGUMENT**

5 Plaintiffs are citizens of Central American who entered the United States
 6 illegally, without any visa, green card, or other government-approved permission to
 7 enter. While many of them are seeking asylum on grounds of "credible threat,"
 8 neither this fact nor the means of their entry are relevant to the claims at issue.
 9 Defendants agree that this trial should be focused on whether the force used was
 10 appropriate, and similar issues germane to Plaintiffs' legal claims, and not the
 11 reasons why and how Plaintiffs entered the country.

12 But while Plaintiffs seek to exclude the negative terms associated with their
 13 immigration, arguing they are irrelevant and prejudicial, they still want to use the
 14 sympathetic terms such as asylum. Plaintiffs would like to reference the conditions
 15 they faced in Central America that caused them to leave, the harrowing journeys
 16 they took to reach the border, and their claims for asylum, in order to influence the
 17 jury and garner sympathy. None of this background information is relevant to the
 18 claims for trial and it is unduly prejudicial to defendants. Fed. R. Evid. 402, 403;
 19 *see also*, Defts' Mot'n in Limine 2 [Doc. #152]. Moreover, allowing the positive
 20 words and not the negative ones gives a lopsided and unfair portrayal. Defendants'
 21 position is that either the door is open to all terms – good and bad – or that the
 22 wording should be sanitized so that neither side is prejudiced nor benefited.

23 During the meet and confer process, defense counsel suggested sanitized
 24 wording, to avoid filing competing motions in limine and to resolve the issue. For
 25 instance, any given Plaintiff could simply testify that he arrived in California on a
 26 certain date, and was housed at the Adelanto detention facility during a certain time
 27 period, and is now living such and such City with his family, doing a specific job,
 28 or he could even skip the history before arriving at the detention facility. While

1 sometimes parties provide background information to personalize themselves a bit
 2 with the jury, this information is typically limited in nature. Here, the potential
 3 wording is too loaded – and prejudicial – not to define the parameters in advance.

4 Plaintiffs indicate they are concerned about what the jury will be told if
 5 Martinez and Castillo are not permitted to attend trial in person, and what the jury
 6 will be told regarding their departure from the U.S. (*See* Pl’s Mot’n, Doc. 147 at
 7 6.) However, there is no reason the jury needs to know where they live currently,
 8 when and how they departed the country, or if their visas are denied to attend trial,
 9 unless the door is opened to these topics.¹ If a witness ends up testifying via
 10 videoconference or some other means, or can only attend trial during some portion
 11 of the proceedings, the jury may be told not to speculate as to the reason without
 12 being provided additional details. This often occurs in trials with CEOs or other
 13 out-of-state executives, and the jury is presumed able not to hold this against them.

14 For the reasons cited above, and in Plaintiffs’ motion, Defendants request
 15 that this Court fashion a sanitized method of discussing Plaintiffs’ detention
 16 without referencing them as either illegal immigrants or asylum-seekers.

17
 18 Dated: January 7, 2020

BURKE, WILLIAMS & SORESENSEN, LLP

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 20 By: /s/ Susan E. Coleman

Susan E. Coleman
 Carmen M. Aguado

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 22 Attorneys for Defendants
 23 THE GEO GROUP, INC., CITY OF
 24 ADELANTO, CAMPOS, and DIAZ

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 26 _____
 27 ¹ Defendants reserve the right to object to Plaintiffs Martinez and Castillo’s
 28 deposition testimony being used at trial if they claim to be unavailable. Their
 depositions were not taken as trial testimony, nor is there a stipulation to deem out
 of country witnesses unavailable under Fed. R. Evid. 804.